

What's My Horse Really Worth?

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MasterCard hasn't actually featured horses in their commercials yet, but the sentiment of this fanciful advertisement should strike a familiar chord with most horse owners. No matter their material worth in dollars and cents, our horses are priceless--at least to us.

Sometimes, however, circumstances make it necessary to determine the actual monetary value of a horse. If an owner purchases a mortality insurance policy on a horse, for example, it is necessary to know approximately how much it will cost to replace the animal if it dies. If an owner decides to sell a horse privately or at auction, the asking price or reserve bid should represent at least a well-educated guess about the animal's actual value. If a horse is killed as a result of the negligence of another person, such as the owner of a farm where the horse was being boarded, the value of the animal likely will be a major point of contention in a lawsuit.

Determining the value of a horse also can be necessary in other, less-obvious situations. Division of personal property is an issue in most divorces, amicable or not, and the court will need to be able to assign a realistic dollar amount to the parties' horses. Estate and tax planning also will be affected by the value of assets, including horses.

In each of these examples, the value of the horse in question is based on the animal's legal status as personal property. The insured value of a horse for purposes of a mortality policy, for example, is the replacement cost, or the amount of money it will take to replace the horse with a similar one. Replacement cost also is relevant for a horse killed due to another person's negligence or for a horse that is being sold. In the divorce, estate planning, and tax contexts, a horse, like any other piece of property, is an asset whose value must be determined with a high degree of accuracy.

Consider a mortality policy on a horse. While it might be tempting to think of such a policy as similar to life insurance for a person, the two actually serve very different purposes.

While mortality policies and lawsuits for damage to property are concerned with replacement value of the animal, life insurance and wrongful death lawsuits are based on the presumption that a human life is irreplaceable. Rather than providing the financial wherewithal for an owner to replace lost property, life insurance proceeds and wrongful death verdicts should compensate the survivors for their losses. Life insurance proceeds substitute for the earning power of the insured, while compensation can include lost wages, loss of companionship, and emotional distress.

In all of the property or asset examples, a general rule is that the replacement cost will mirror the horse's fair market value, or FMV. The FMV is simply the amount that the horse (or any other property) would bring if offered for sale by a willing seller with no obligation to sell and purchased by a willing buyer with no obligation to buy. This legal definition accounts for the close correlation between FMV and replacement cost. If a horse would change hands between a willing seller and a willing buyer for

\$10,000, for example, it is reasonable to think that a similar replacement animal could be purchased for around \$10,000.

The FMV of a horse is easy to define, but sometimes difficult to calculate with any precision. When a horse is sold at public auction, the calculation is an easy one. The final bid is the animal's FMV at the time of the sale.

Determination of the FMV in other circumstances is not so straightforward. Consider a homebred dressage horse that never has been sold or even offered for sale by its breeder/owner. What is that horse's FMV for purposes of a mortality insurance policy? Or if uninsured, what monetary damages has the owner suffered if the horse is killed due to the negligence of the owner of the farm where it is boarded? What is a reasonable asking price for the horse if the owner decides on a private sale? How should the horse be valued in a divorce proceeding, or for tax estate planning purposes?

Appraising a Horse

A professional appraisal of the horse might be the best way to answer those questions. The mechanics of an appraisal should be familiar to anyone who has seen an episode of "The Antiques Roadshow" on public television: The owner of a dresser, or a piece of jewelry, or a supposed Tiffany vase with an indeterminate value presents the item to an expert. Combining his or her general knowledge of the field with experience selling similar items at auction or privately, the expert comes up with an estimate of the value of the item in question. The expert, in other words, is making an educated guess about the item's FMV. Just how reliable that estimate actually is depends on the expertise of the person making the guess.

An appraisal of a horse works the same way. An expert reviews pertinent information about the horse, then makes his or her best estimate about the animal's monetary value. One of the most common ways to do this is to research public and private sales of horses with similar pedigrees and performance or produce records. If you are lucky enough to negotiate a private sale of a stakes-winning, stakes-producing Thoroughbred mare in foal to top sire Storm Cat, prior auction sales of similar mares should give a good estimate of the FMV of your mare.

You should expect to provide an appraiser with at least the following:

- Information positively identifying the horse being appraised. This is necessary to avoid fraud. It does not mean that the appraiser thinks that you are dishonest. It does mean that there are unscrupulous persons who might try to inflate the appraised value of a cheap horse in an attempt to cheat a buyer or an insurance company.
- The horse's pedigree--the more detailed the better.
- The horse's performance and produce records, if any.
- The purpose of the appraisal (pending sale or purchase, valuation for insurance, or litigation, for example).

- Contact information for the owner.
- Any other relevant information, including deadlines if time matters to you.

The appraiser might also want to see a veterinarian's health certificate for the horse, especially if the appraiser is not going to physically examine the animal. An appraisal does not take the place of an examination by a veterinarian, and unless qualified in some way, an appraisal generally assumes that the animal is sound and in good health.

You should expect from an appraiser the following:

- Credentials establishing his or her expertise. The American Society of Equine Appraisers (www.equineappraiser.com) offers training, continuing education, and certification for appraisers. Members of that organization agree to follow a Code of Ethics in their work. The American Association of Agricultural Appraisers (www.amagappraisers.com) also certifies equine appraisers. A non-certified appraiser might be able to do a competent job, but certification provides an added measure of confidence in the appraiser. Certification takes on a more important role if the appraiser must be qualified as an expert witness in court.
- An appraiser should have experience in the horse business in general and specifically with your horse's breed. You might want to look for membership in relevant breed organizations. An appraiser who has experience only with Thoroughbreds, for example, might not understand the significance of a placing at the Arabian Nationals.
- If the appraisal is being done for litigation, the appraiser should have experience testifying in court as an expert witness. Rules of evidence generally allow an expert to offer an opinion if it would assist the jury in making a decision. You want an appraiser who uses fundamentally sound and defensible methods for estimating a horse's value and who can make those methods understandable to a jury.
- The fee to be charged for the appraisal. Depending on the purpose of the appraisal, the expected fees could include the appraisal itself, communication with an insurance company, pre-trial depositions, and court appearances.
- Full disclosure is required of any financial or other interest the appraiser might have in the horse being appraised.

Always keep two things in mind about an appraisal:

First, an appraisal, even one done by the most knowledgeable expert in the business, is a well-informed estimate of value, but not a guarantee of anything. An appraisal that estimates the FMV of your horse at \$10,000 does not mean that your horse actually will bring \$10,000 if offered for sale at auction, or that there are any willing buyers at that price. Nor does an appraisal mean that the appraiser is offering to buy your horse for the estimated value. If the appraisal is being done for litigation, an ethical appraiser will not make any promises about a successful conclusion to the lawsuit.

Second, an appraisal is an estimate of your horse's value at the time the appraisal is done. The value of a horse can change over time, and usually does. Your horse can appreciate in value if you are lucky, or depreciate if you are not. The latter situation can mean a disappointment at sale time, or an unexpected shock if it becomes necessary to collect on an insurance policy.

For example, most mortality policies include a provision that automatically reduces the insured value of a horse if certain specified things happen. Consider a 2-year-old Thoroughbred purchased at auction for \$50,000 and immediately insured for that amount. At the time of the sale, the FMV of the horse is the \$50,000 purchase price. If the horse subsequently is entered in a race for \$10,000 claimers, then dies, most mortality policies will pay the horse's owner only \$10,000. The reduction is based on the assumption that entering the horse for a \$10,000 claiming tag means the horse's owner is willing to sell the horse for that amount.

The insured value of a horse also might decrease to the amount of the final bid if the horse is offered for sale at auction, but not sold. The assumption here is that there is no willing buyer at a higher price.

The inverse generally is not true. If the \$50,000 2-year-old in our example wins a couple of stakes races and his FMV value increases to \$150,000, the insured value stays at \$50,000 unless the policy is renegotiated for more coverage at a higher premium.

Assigning a value to a horse raises both practical and philosophical questions. A strong case can be made for the idea that a horse, or any other living creature, has an inherent worth beyond its utility or income-producing potential. The legal system, on the other hand, traditionally has addressed loss of property only in terms of monetary damage and replacement costs.

Other, less tangible harms--such as emotional distress--historically have been unavailable for the loss of personal property, even if the owner had a strong personal attachment to the property.

In the law's eyes, the loss of a family heirloom with great sentimental value (such as a pocket watch belonging to a much-loved grandfather) does not entitle the owner to anything beyond the replacement cost for a similar watch. Any emotional distress due to the loss of the heirloom traditionally has been legally irrelevant.

Traditional wisdom might be changing, however, as courts and legislatures begin to struggle with the distinction between animals and inanimate kinds of personal property. In Kentucky, for example, the Court of Appeals in two recent decisions has taken different approaches to compensation for the loss of animals.

In *Burgess v. Taylor*, the owner of two pleasure horses entrusted her animals to a "friend" who almost immediately sold both horses for slaughter. The Court of Appeals affirmed a jury verdict that awarded the horses' owner \$1,000, the acknowledged FMV of the two horses, plus another \$125,000 in compensation for the defendants' outrageous conduct in selling the horses and for punitive damages. The Court explained that the defendants knew of the owner's strong attachment to the two horses, and that they either knew or should have known that selling the animals for slaughter would result in

emotional distress. The Court also found that the defendants' conduct was outrageous because it offended "generally accepted standards of decency and morality."

Strictly interpreted, Burgess stands for the idea that the horses' owner was compensated for the defendants' outrageous conduct, not because the horses had some special status in relation to their owner. It is difficult to imagine a similar verdict if the personal property had been a refrigerator or an automobile.

A year later, however, in *Ammon v. Welty*, a different panel of judges on the Court of Appeals ruled that the owners of a dog destroyed at an animal shelter before expiration of a waiting period could not recover for loss of consortium (the loss of companionship of a spouse or child). Although everyone agreed that the dog had little or no monetary value, the owners argued that they were entitled to be compensated for their loss of a loving and loyal companion. The Court ruled that a claim for loss of consortium is limited to family members. "The loss of love and affection resulting from the loss or destruction of personal property," the Court explained, "is not compensable."

Advocates for animal rights are challenging the long-standing status of horses and other animals as personal property. However, in most jurisdictions--at least for the immediate future--the value of a horse will be determined using traditional guidelines for property.